

Contract / Tort / Intellectual Property
Restraint of trade – Whether deed of restrictive covenant restricted involvement in any competing business upon 12 months or longer from cessation of employment – Whether there was breach of contractual obligations to safeguard trade secrets, breaches of fiduciary duties or confidence

Vision Cast Sdn Bhd & Anor v Dynacast (Melaka) Sdn Bhd & Ors
[2014] 8 CLJ 884, Court of Appeal

Facts The second appellant/defendant was an employee of the first and second respondents/plaintiffs who were members of the Dynacast Group, a group within a multinational company (“third respondent/plaintiff”) involved in the business of die-casting component parts. After the second defendant ceased his service with Dynacast Group, he incorporated the first defendant, a company engaged in a similar business. The plaintiffs filed a suit in the High Court, claiming disclosure of trade secrets and copyright infringement by the second defendant. The High Court dismissed the plaintiffs’ claim for copyright infringement and passing off but held that there was a breach of contractual obligations to safeguard trade secrets, and thus allowed the plaintiffs’ claims for breaches of fiduciary duties or confidence. The defendants appealed to the Court of Appeal.

Issues The issues before the Court of Appeal were (1) whether restrictions under the deed of restrictive covenant refraining the second appellant from undertaking any competing business were only enforceable for a period of 12 months from the cessation of his employment; and (2) whether there was a breach of contractual obligations to safeguard trade secrets, breaches of fiduciary duties or confidence.

Held The Court of Appeal, in allowing the appellants’ appeal, held that restrictions under the deed of restrictive covenant were expressly qualified and limited to a period of 12 months from the cessation of the second appellant’s employment. Therefore, since the incorporation took place after 15 months, he was no longer restricted from being involved in any other competing business. There were also no breaches of fiduciary duties or confidence by the second appellant, since the impugned information was from his knowledge, exposure and experience accumulated in the die-cast industry over the years.